

System and Institutional Redesign Proposal

Prepared for the Children, Families, Health and Human
Services Interim Committee, 2013 - 2014

Disability Rights Montana

OVERVIEW OF PROPOSAL

DRM strongly supports and defends the human and civil rights of people with disabilities. We believe that our state system must be designed so that people with disabilities live in the least restrictive environment possible while receiving treatment – just like people without disabilities.

We are so gratified that at this point in time, the state is on the verge of creating a new system of providing services to people with disabilities. We believe that at this time, we should build the community system that we want. We should not be driven by inertia or entrenched mind-sets to continue to use the existing institutions for their historic or even current uses if that is not consistent with the system that we want to have.

Our proposal shifts our crisis and long term services from large, congregate care institutions to small, regional facilities throughout the state where people with mental illness and developmental disabilities can be stabilized.¹ We believe that these services can be provided entirely in a community setting as opposed to the current system of stabilization at the Montana State Hospital (MSH) or Montana Developmental Center (MDC).

Small, 16 bed or smaller facilities for stabilization of people with mental illness would allow for Medicaid funding. This would be a far less expensive option than the Montana State Hospital, which is funded entirely with general fund dollars. These facilities could also be used for assessment of a defendant's fitness to proceed, court-ordered evaluations and pre-sentence evaluations as well as a treatment facility for those found not guilty by reason of mental illness.

For those with developmental disabilities, we believe that all individuals facing a civil commitment can also be habilitated and stabilized in short term, small, 4 to 8 bed residential facilities throughout the state. Given the small population of individuals who would need these services at any given time and given that mental illness is often a substantial factor in these crises, it may make sense to have any such facility ancillary to the above noted mental health stabilization facilities. In the alternative, these facilities could be adjacent to or located near larger providers of adult developmental disability services that currently serve individuals who are at risk of needing stabilization.

Under our proposal, those with mental illness who have been convicted of crimes would serve time in MSH, which would expand its forensic unit to a capacity of 135 - the original licensed capacity for the main hospital building.

¹ This proposal largely follows the format of NAMI Montana's DRAFT Options 1 and 2. We view this proposal as a friendly amendment to these Options, and propose it as "Option 3."

Only 7 people with developmental disabilities have been convicted of crimes and are being served at MDC. Our proposal would entail shifting these residents from the MDC campus to a very small facility for this population built close to necessary psychiatric and medical services that can focus on their need for habilitation in a community, such as Bozeman, Billings, Helena, Great Falls or Missoula.

Finally, people with substance abuse issues should receive treatment in the least restrictive setting in the community if at all possible. Those who abuse substances who have driven under the influence or committed other crimes need the services of the WATCH program or other substance abuse treatment programs. WATCH is currently housed on the MSH campus. We understand that the WATCH program currently has a waiting list, and some of those on that waiting list are waiting in county jails. With the diversion of people with developmental disabilities into community stabilization facilities and one very small forensic facility, the MDC campus would be available for expansion of WATCH or the implementation of another program for the treatment of substance abuse in inmates convicted of a wide variety of crimes.

PROBLEMS WITH CURRENT SYSTEM

Montana State Hospital

1. The State Hospital's Forensic Unit is over capacity.
2. There are not enough community beds. Many people who are civilly committed to MSH could stabilize as well or better in smaller, local community facilities. The few crisis facilities that have been built and funded have successfully diverted people from MSH.
3. Both men and women are housed in the Forensic Unit, which has led to exploitation and sexual assault.
4. The State Hospital's Forensic Unit has not adequately learned how to provide security to patients and staff while providing meaningful psychiatric treatment. There are many reasons for this, one of which is that the facility is not exclusively forensic. The Forensic Unit is largely defined by the removing of activities and benefits the other patients in the facility receive. There is little affirmative programming and planning for the forensic population itself.
5. The State Hospital is funded by general fund dollars, whereas small community treatment facilities are usually eligible for Medicaid funds.

Montana Developmental Center

6. The Montana Developmental Center has a very large campus with shuttered buildings and a small population of roughly 51 residents. There are 250 employees at MDC to serve this population. The residents are generally from populated areas that have more health care services than the community of Boulder. Only 7 of the 51 people at MDC are there because of a criminal commitment. These criminally convicted residents could be served better and more efficiently in a far smaller facility in a more populated area with better access to health care and psychiatric services.
7. There are insufficient community- based crisis stabilization facilities for people with developmental disabilities. People who are civilly committed to MDC could stabilize as well or better in smaller, local community crisis facilities.

Montana State Prison and Montana Women's Prison

8. The prisons are not appropriate places for effective treatment of people with mental illness who have committed crimes. They would be more effectively treated in a forensic hospital setting capable of handling potentially violent offenders.
9. In our experience, there are serious issues about the effectiveness of the psychiatric treatment of mentally ill offenders in MSP and MWP.
10. The WATCH program often has a waiting list, which includes many people who are in county jails. Addiction is increasingly common in the prison population and there is a need for treatment programs for inmates who have committed a variety of crimes.
11. Criminal sentencing now deprives judges of the ability to order a defendant found guilty but mentally ill (GMI) or developmentally disabled (GDD) to serve the entirety of his or her sentence at a treatment facility. This is true even if there is strong evidence that the treatment facility would be the most appropriate option for the defendant.

Current law provides total discretion to the DPHHS Director to transfer those found gmi or gdd out of treatment facilities and no discretion to the DOC Director to transfer them from a prison to those treatment facilities. These decisions are not appealable by the patient/inmate, nor reviewable by a court. This means that even when a person with a criminal offense would be better treated in MSH or MDC than in general population in MSP or MWP, they can and will be sent to MSP or MWP if the DPHHS Director desires, with very few options to return for treatment.

PROPOSAL

1. Convert Montana State Hospital into a forensic hospital capable of caring for 135 offenders with serious mental illness and co-occurring conditions. Implement appropriate treatment protocols using evidence-based practices and appropriate security measures.
2. Establish a small, secure facility in a well populated area in Montana for up to 12 individuals with developmental disabilities with forensic commitments.
3. Expand the WATCH program or add another substance abuse treatment program for people who have committed crimes to utilize the MDC campus in addition to the Xanthopoulos building on MSH campus, which WATCH is currently using.
4. Establish treatment facilities for crisis and long-term treatment of people with mental illness and co-occurring disorders for those at risk of and who are subject to emergency detentions or civil commitments. These would be located in the communities of Missoula, Great Falls, Kalispell, Billings, and Butte. These facilities may be private and funded by long-term state contracts or state programs with state employees, but they need to be capable of providing involuntary treatment. These facilities could also be used for assessment of a defendant's fitness to proceed, court-ordered evaluations and pre-sentence evaluations as well as a treatment facility for those found not guilty by reason of mental illness. These facilities must be prohibited from denying services to an individual who has been ordered there by a court.
5. Establish treatment facilities for crisis and long-term treatment of people with developmental disabilities and co-occurring disorders for those at risk of and who are subject to emergency detentions or civil commitment. These would be located in larger communities such as Missoula, Billings, Helena and Butte, where there are larger numbers of private providers of adult developmental disability services. These facilities may be private and funded by long-term state contracts or state programs with state employees, but they need to be capable of providing involuntary treatment. These facilities must be prohibited from denying services to an individual who has been ordered there by a court.
6. Amend 46-14-312 Mont. Code Ann. to require judicial review of any inter-institutional transfers of GMI or GDD sentenced individual from a treatment facility to MSP or MWP and give the DOC Director the ability to transfer an individual from MSP or MWP to a treatment facility without requiring judicial review.